

San Diego County Code of Regulatory Ordinances
TITLE 8 ZONING AND LAND USE REGULATIONS*
DIVISION 7. EXCAVATION AND GRADING*

CHAPTER 7. SURFACE MINING OPERATIONS*

***Note**--Added by Ord. No. 5128 (N.S.), effective 5-4-78. Title added, not included in ordinance.

Cross reference(s)--Excavations, fills and obstructions, § 71.301 et seq.

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SEC. 87.701. PURPOSE.

The Board of Supervisors hereby finds and declares that the extraction of minerals is essential to the continued economic well-being of the County of San Diego and that it is the purpose and intent of this chapter to regulate all surface mining operations in the unincorporated area of the County of San Diego as authorized by The Zoning Ordinance of the County of San Diego and by the California Surface Mining and Reclamation Act of 1975 (Public Resources Code, Section 2710 et seq.) to ensure that:

- (a) The continued mining of minerals will be permitted in a manner which will protect the public health and safety and will provide for the protection and subsequent beneficial use of mined and reclaimed land; and
- (b) The possible adverse effects of surface mining operations on the environment, including air pollution, impedance of groundwater movement, water quality degradation, damage to aquatic or wildlife habitat, flooding, erosion and sedimentation, will be prevented or minimized; and
- (c) The production and conservation of minerals will be encouraged while giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment.
- (d) This Chapter is intended to implement the minimum requirements of the Surface Mining and Reclamation Act of 1975 (SMARA) as well as to specify local requirements. Should conflict arise between the provisions of this Chapter and the minimum requirements of SMARA, the SMARA requirements shall take precedence.

(Added by Ord. No. 5128 (N.S.), effective 5-4-78; amended by Ord. No. 8174 (N.S.), adopted 11-17-92)

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SEC. 87.701.5. DEFINITIONS.

Whenever the following words are used in this division they have the meaning ascribed to them in this section:

- (a) "DEPARTMENT" means the Department of Planning and Land Use of the County of San Diego.
- (b) "DIRECTOR" means the Director of Planning and Land Use of the County of San Diego.

(Added by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79)

Cross reference(s)--Definitions, § 12.101 et seq.

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SEC. 87.702. SURFACE MINING PERMIT AND RECLAMATION PLAN REQUIRED.

Except as specified in Section 87.703, no person shall conduct surface mining operation unless a Major Use Permit therefor is obtained, a Reclamation Plan is approved as provided by this chapter, the Zoning Ordinance of the County of San Diego, and the California Surface Mining and Reclamation Act of 1975 and financial assurances for reclamation have been approved by the County. Grading performed pursuant to such Major Use Permit shall be in accordance with a plot plan and conditions approved by the Planning Environmental Review Board, Planning Commission, Board of Supervisors, Director or County Official. Where a surface mining operation has been conducted in violation of this or other ordinances, and the operation has ceased, the Director may require a Reclamation Plan for the restoration of the site.

(Added by Ord. No. 5128 (N.S.), effective 5-4-78; amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 6508 (N.S.), operative 3-1-83; amended by Ord. No. 8174 (N.S.), adopted 11-17-92)

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SEC. 87.703. EXEMPTIONS.

The provisions of this chapter do not apply to:

- (a) Excavations or grading conducted for farming or on-site construction or for the purpose of restoring land following a flood or natural disaster.
- (b) Prospecting for, or the extraction of, minerals for commercial purposes and the removal of overburden, in total amounts of less than 1,000 cubic yards in any one location of one acre or less.
- (c) Surface mining operations that are required by Federal law in order to protect a mining claim, if such operations are conducted solely for that purpose.
- (d) The solar evaporation of sea water or bay water for the production of salt and related minerals.
- (e) Such other surface mining operations which the State Mining and Geology Board finds are exempt from the provisions of the California Surface Mining and Reclamation Act of 1975 because they are of an infrequent nature and involve only minor surface disturbances.
- (f) Any person who has obtained a vested non-conforming right to conduct surface mining operations prior to January 1, 1976, shall not be required to secure a Major Use Permit pursuant to the provisions of this chapter and the Zoning Ordinance of the County of San Diego as long as such vested non-conforming right continues; provided, however, that a person who has obtained a vested non-conforming right to conduct surface mining operations prior to January 1, 1976, shall submit to the Department for approval by the Planning and Environmental Review Board, a Reclamation Plan for vested operations conducted after January 1, 1976. Said Reclamation Plans shall be in accordance with the "Application for Reclamation Plan" provided by the Department. Nothing in this chapter shall be construed as requiring the filing of a Reclamation Plan for mined lands on which surface mining operations were conducted prior to, but not after, January 1, 1976. An appeal of the decision of the Planning and Environmental Review Board may be made in the same manner as an appeal of a Major Use Permit.

(Added by Ord. No. 5128 (N.S.), effective 5-4-78; amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 8174, adopted 11-17-92)

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SEC. 87.704. APPLICATION AND REVIEW.

(a) All applications for a Major Use Permit for surface mining shall be made, considered and granted or denied pursuant to The Zoning Ordinance of the County of San Diego, and shall be accompanied by an "Application for Reclamation Plan" as provided by the Department. Such applications shall be accompanied by such other data or information required by the Director. The decision to grant or deny the proposed reclamation plan shall be made at the same time as the decision to grant or deny the proposed major use permit for the same project. All plans and specifications for the grading of the property shall be prepared or approved and signed by a registered civil engineer, and shall include all information required in Section 87.205 and any other information required by the Director.

(b) Any mining operation conducted pursuant to vested non-conforming rights or pursuant to a Major Use Permit, shall cease operating until a Reclamation Plan is approved by the County, unless the Reclamation Plan is on appeal to the State Mining and Geology Board. An "Application for Reclamation Plan" shall be submitted within 120 days from the date the Director requests in writing to the mining operator or mining site property owner that such Reclamation Plan be submitted or within the extension periods the Director may grant if cause is shown why more time should be granted for the filing. Said application shall be made and considered in the same manner as provided in the Zoning Ordinance for a Major Use Permit, including the requirements for environmental impact review. Reclamation Plans may be granted subject to such conditions and limitations as may be deemed appropriate.

(c) The County shall submit all proposed Reclamation Plans and any proposed amendments to the State Geologist for review at least 45 days before the County acts on the proposed Reclamation Plan or amendments. The County shall notify the State Geologist of the filing or an application for a surface mining permit within 30 days of the filing of an application. The County shall also send the State Geologist a copy of each mining permit approved by the County.

(d) The Reclamation Plan shall, in addition to all other requirements, provide in designated phases for the progressive rehabilitation of the mining site land form so that, when reclamation is complete, it will contain stable slopes, be readily adaptable for alternate land uses, and be free of derelict machinery, waste materials and scrap to the satisfaction of the Director. The proposed mining site land form, to the extent reasonable and practical, shall be revegetated for soil stabilization, free of drainage problems, coordinated with present

and anticipated future land use, and compatible with the topography and general environment of surrounding property.

(e) Where any requirement of the reclamation plan conflicts with any requirement of the approved major use permit, the Director shall determine which requirement shall apply.

(Added by Ord. No. 5128 (N.S.), effective 5-4-78; amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 6508 (N.S.), operative 3-1-83; amended by Ord. No. 8174 (N.S.), adopted 11-17-92; amended by Ord. No. 8590 (N.S.), effective 10-27-95)

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SEC. 87.705. FILING FEE FOR RECLAMATION PLAN.

A deposit of shall be paid to the County of San Diego through the Department upon the filing of each application for a Reclamation Plan; provided, however that no fee/deposit shall be charged for such applications filed concurrently with, or pursuant to any condition of, a Major Use Permit. The amount of said deposit shall be determined no less than annually by the Board of Supervisors in an adopted resolution. The adopted resolution shall carry the full weight and force of this ordinance. If the actual costs of processing the Reclamation Plan are less than the amount deposited, the Department shall authorize a refund to the applicant of any amount remaining in said deposit. If any deposit is insufficient to pay all the actual costs of processing the Reclamation Plan the applicant, upon demand of the Department, shall pay an amount deemed sufficient by the Department to complete the work in process.

(Added by Ord. No. 5128 (N.S.), effective 5-4-78; amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 5819 (N.S.), effective 7-31-80; amended by Ord. No. 6034 (N.S.), effective 5-28-81, operative 7-1-81; amended by Ord. No. 6392 (N.S.), effective 7-13-82; Ord. No. 6392 (N.S.), superseded by Ord. No. 6404 (N.S.), adopted 7-20-82, effective 8-19-82; section 87.705 deleted and section 87.706 renumbered as 87.705 and amended by Ord. No. 8174 (N.S.), adopted 11-17-92)

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SEC. 87.706. AGREEMENT REQUIRED -- SURFACE MINING OPERATIONS.

- (a) No surface mining shall be conducted pursuant to a Major Use Permit or pursuant to vested nonconforming right unless prior to commencement an Agreement has been entered into allowing the County to enter the property to correct any landscaping or irrigation system deficiencies, any unsafe condition, or breach of provisions of the Major Use Permit and/or Reclamation Plan.
- (b) The Agreement shall authorize the County or any person authorized by the County to enter the property at a mutually agreeable time and after having given the mining operator or permittee a minimum 24 hour notice to perform an annual inspection, as mandated by the State, or follow-up inspections as a result of the annual inspection. The Agreement shall also authorize the County or any person authorized by the County to enter the property at any reasonable times to investigate any suspected violation of any condition of the Major Use Permit or Reclamation Plan and/or for emergency abatement of hazardous conditions. Said Agreement shall be executed by the permittee, the owner of the property and by holders, except government entities, of any lien upon the property which could ripen into a fee. The permittee shall provide acceptable evidence of title showing all existing legal and equitable interest in the property. The Director of Planning and Land Use is hereby authorized to execute and accept the Agreement on behalf of the County of San Diego. The Agreement shall be recorded before any mining is done.
- (c) The Agreement shall be secured by financial assurance in an amount as specified in subsection (d), to assure compliance with the Reclamation Plan. The assurance shall be made payable to the Director of Planning and Land Use and the California Department of Conservation and may take the form of surety bonds, irrevocable letters of credit, trust funds, or other forms of financial assurance adopted by the State Mining and Geology Board, which the County reasonably determines will be readily available to pay for reclamation in accordance with the surface mining operation's approved Reclamation Plan.
- (d) The assurance shall be in an amount equal to the estimated cost to reclaim, in accordance with the requirements of the approved Reclamation Plan, all disturbed, unreclaimed lands and all acreage expected to be disturbed in the forthcoming year. If a mining operation's Reclamation Plan provides for exhaustion of all mineral resources before beginning reclamation, the required assurance shall be the estimated cost to restore all disturbed, unreclaimed lands and all acreage expected to be disturbed in the forthcoming year to a condition that will not constitute a danger to the public health or safety and that will provide for the type

of reclamation required in the Reclamation Plan. The surface mining operator or permittee shall provide an estimate of the cost of reclamation prepared by a state-registered civil engineer. All financial assurances shall be forwarded to the California Department of Conservation for review at least 45 days prior to County approval. The Director of Planning and Land Use shall review all financial assurance estimates and shall approve those that are sufficient. The estimate must be submitted not later than 120 days after the adoption of this ordinance and by July 1st of each year thereafter. If the operator or permittee does not submit this estimate by the required deadline, the County will calculate an estimate of assurance. The staff time spent calculating this estimate will be charged against the inspection deposit. The financial assurance shall be provided to the County within 60 days of notification of the Director of Planning and Land Use's approval of the financial assurance amount.

(e) This amount shall be adjusted annually to account for new lands disturbed or expected to be disturbed in the forthcoming year by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved Reclamation Plan. In no event shall the amount of assurance required be construed as a limitation on the liability of the permittee.

(f) The permittee and the surety executing such bond or person issuing such instrument of credit or making such cash deposit shall continue to be firmly bound under a continuing obligation for the payment of all necessary costs and expenses that may be incurred or expended by the County in causing any and all such work to be done. Financial assurances shall no longer be required of a surface mining operation, and shall be released, upon written notification by the County, which shall be forwarded to the operator and the State Geologist, that reclamation has been completed in accordance with the approved Reclamation Plan. In the case of a cash deposit, any unused portion thereof shall be refunded to the permittee.

(g) The County must be notified no less than 180 days prior to cancellation of any financial assurance. The County may seek the forfeiture of such financial assurance if new assurance is not posted at least 30 days prior to the expiration of the financial assurance.

(h) If a mining operation is sold or ownership is transferred to another person, the existing financial assurances shall remain in force and shall not be released by the lead agency until new financial assurances are secured from the new owner and have been approved by the County.

(Added by Ord. No. 5128 (N.S.), effective 5-4-78; amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 6508 (N.S.), operative 3-1-83; section 87.707 renumbered as 87.706 and amended by Ord. No. 8174 (N.S.), adopted 11-17-92; amended by Ord. No. 8553 (N.S.), effective 8-10-95, operative 8-10-95; amended by Ord. No. 8962 (N.S.), effective 9-23-98)

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SEC. 87.707. DENIAL OF AN APPLICATION FOR RECLAMATION PLAN.

Any application for a reclamation plan which is denied by the Planning Commission or the Board of Supervisors, shall be revised as directed by said Planning Commission or Board and resubmitted within 120 days of such denial. All resubmitted applications shall be accompanied by a fee of two hundred and fifty dollars (\$250.00) paid to the County of San Diego unless said fee is waived by the Planning Environmental Review Board, Planning Commission or Board of Supervisors for cause.

(Added by Ord. No. 5128 (N.S.), effective 5-4-78; amended by Ord. No. 6508 (N.S.), operative 3-1-83; section 87.708 renumbered as 87.707 by Ord. No. 8174 (N.S.), adopted 11-17-92; amended by Ord. No. 8553 (N.S.), effective 8-10-95, operative 8-10-95)

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SEC. 87.708. APPEAL.

Any appeal from the decision of the Planning Commission on a reclamation plan shall be filed in the manner specified in The Zoning Ordinance for an appeal of a major use permit.

(Added by Ord. No. 5128 (N.S.), effective 5-4-78; amended by Ord. No. 6508 (N.S.), operative 3-1-83; section 87.709 renumbered as 87.708 by Ord. No. 8174 (N.S.), adopted 11-17-92; amended by Ord. No. 8553 (N.S.), effective 8-10-95, operative 8-10-95)

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SEC. 87.709. MODIFICATION.

(a) An approved Reclamation Plan, or any conditions thereof, may be modified using the same procedures for processing a new application, including environmental review. The application fee and deposit for a Reclamation Plan modification shall be the same as that required for a modification of a Major Use Permit. If both a Major Use Permit and Reclamation Plan modification are applied for concurrently, the fee and deposit are the same as for a modification of a Major Use Permit. The County shall send a copy of all applications to modify Reclamation Plans to the State Geologist for review at least 45 days before the County acts on the application.

(b) The Director may approve minor amendments to the Reclamation Plan in the same manner as a Minor Deviation to a Major Use Permit. A minor amendment is a change to the approved Reclamation Plan that the Director determines will not increase any deleterious impact the project has on the environment or the conditions of the project's approved Major Use Permit or Reclamation Plan. The application fee for a minor amendment to an approved Reclamation Plan shall be the same as that required for a Minor Deviation of Major Use Permit.

(c) Pursuant to SMARA Section 2774, any modification or amendment to a Reclamation Plan shall be forwarded to the State Geologist. The State Geologist shall have 45 days to provide written comments.

(d) Notwithstanding the provisions of the Zoning Ordinance relative to modification or revocation of a Major Use Permit, the Director may modify or add conditions to the Reclamation Plan solely regarding grading for the same reasons as specified for grading permits in Section 87.305 of this division.

(Added by Ord. No. 5128 (N.S.), effective 5-4-78; amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 6508 (N.S.), operative 3-1-83; section 87.710 renumbered as 87.709 and amended by Ord. No. 8174 (N.S.), adopted 11-17-92)

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SEC. 87.710. INSPECTION.

(a) The Director of Planning and Land Use or authorized representative shall inspect each surface mining site at least once each year within 6 months of receipt of a copy of the mining operation's annual report, filed with the State pursuant to Public Resources Code Section 2207. A copy of the completed inspection report shall be forwarded to the State Geologist, within thirty (30) days of inspection using a form supplied by the State. At a minimum the annual inspection will consist of the following:

(1) The mining operator or permittee shall provide to the Director of Planning and Land Use by each July 1, aerial photographs of the mining site taken in the same month of the second quarter of each year. The aerial photographs shall consist of:

(i) Defined, marked and permanent ground controls; and

(ii) Planimetric map of the mining site based on the aerial models with 5" contours and drawn to 1" = 200' scale.

(2) Field and office calculations prepared by the Director of Planning and Land Use to determine if the mining operation complies with the Major Use Permit and Reclamation Plan.

(3) Any necessary follow-up inspections and all reports required by the Surface Mining and Reclamation Act.

(b) Upon the request of a mining operator or permittee, the Director of Planning and Land Use may waive the requirement for the aerial photographs on a case by case basis, such as when only channel maintenance is involved or when no excavation has been accomplished since the last inspection, or may adjust the quarter of each year in which the aerial photographs are taken.

(c) Each surface mining operator or permittee shall pay an annual inspection deposit to the Department of Planning and Land Use by July 1 of each year unless otherwise stated in an approved Reclamation Plan. The amount of the deposit shall be determined initially by the Board of Supervisors in an ordinance. This amount shall apply for the first year to all existing surface mining operations and for the first year of any new mining operation. Thereafter, the Director of Planning and Land Use will determine the amount of the

deposit annually based on the cost to inspect each surface mining operation. If the Director of Planning and Land Use determines that the annual inspection should include volume calculations or a boundary survey, the cost for this work shall be included in the deposit. The Director of Planning and Land Use shall notify each mining operator by May 1 each year of the amount of the deposit. The amount of the deposit required shall not be construed as a limitation on the liability of the operator or permittee.

(d) If, after inspecting the mining operation, the Director of Planning and Land Use determines that it does not comply with the Major Use Permit or Reclamation Plan, the Director of Planning and Land Use shall notify the mining operator in writing of the non-compliance. The Director of Planning and Land Use shall give the mining operator a reasonable time, not to exceed 180 days, to comply. If at the end of this time the mining operation still does not comply with the Major Use Permit or Reclamation Plan, the Director of Planning and Land Use may require the mining operator to stop all or a part of the mining operation. Failure to comply with the Reclamation Plan shall be considered a violation of the Zoning Ordinance and Major Use Permit in accordance with Section 87.106 of this division and is unlawful and a public nuisance.

(e) The Director of Planning and Land Use's finding of non-compliance with the Major Use Permit or Reclamation Plan may be appealed pursuant to Zoning Ordinance Sections 7200-7205. At the hearing on the appeal, the Planning Commission shall determine whether the mining operation complies with the Major Use permit and/or Reclamation Plan. If the Planning Commission determines that the mining operation does not comply with the Major Use permit and/or Reclamation Plan:

(1) The Planning Commission may, after proper notice, hearing and findings, suspend the Major Use Permit until the Director of Planning and Land Use determines that the operation complies with the Major Use Permit and/or Reclamation Plan or modify or revoke the Major Use Permit; and

(2) If the Planning Commission determines that the mining operator is making a reasonable effort to comply with the Major Use Permit and/or Reclamation Plan, the Planning Commission may extend the time to comply by a maximum of 90 days.

(3) The Planning Commission's decision may be appealed to the Board of Supervisors.

(4) The Planning Commission or Board of Supervisors may determine that additional financial assurance is required to insure that a Reclamation Plan reviewed pursuant to this section is implemented. The additional financial assurance shall be in an amount specified by the Planning Commission or Board of Supervisors and shall be in a form specified in Section 87.707(c).

(Added by Ord. No. 5128 (N.S.), effective 5-4-78; amended by Ord. No. 5406 (N.S.), effective 3-22-79,

operative 3-23-79; section 87.711 renumbered as 87.710 and amended by Ord. No. 8174 (N.S.), adopted 11-17-92; amended by Ord. No. 8553 (N.S.), effective 8-10-95, operative 8-10-95; amended by Ord. No. 8962 (N.S.), effective 9-23-98)

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SEC. 87.711. SUCCESSOR IN INTEREST.

Whenever any surface mining operation or portion of an operation subject to this division is sold, assigned, conveyed, exchanged, or otherwise transferred, the successor in interest shall be bound by the provisions of any reclamation plan approved pursuant to the provisions of this Division.

(Added by Ord. No. 5128 (N.S.), effective 5-4-78; section 87.712 renumbered as 87.711 by Ord. No. 8174 (N.S.), adopted 11-17-92)

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SEC. 87.712. COMPLIANCE WITH DESIGN STANDARDS.

All final grades established pursuant to the special use permit plot plan or reclamation plan shall comply with the "Design Standards -- Performance Requirements" contained in Chapter 4 of this Division; except that the requirement of ninety percent (90%) compaction of fills and the requirements of Section 87.425 "Completion of Work -- Final Reports" may be waived by the Director of Planning and Land Use. All soil engineer's reports relative to the grading of the property shall be maintained and be made available to the Director of Planning and Land Use prior to placement of any permanent structure on the property.

(Added by Ord. No. 5128 (N.S.), effective 5-4-78; amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; section 87.713 renumbered as 87.712 by Ord. No. 8174 (N.S.), adopted 11-17-92; amended by Ord. No. 8553 (N.S.), effective 8-10-95, operative 8-10-95; amended by Ord. No. 8962 (N.S.), effective 9-23-98)

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SEC. 87.713. LIABILITY AND RESPONSIBILITY OF PERMITTEE.

Neither the issuance of a special use permit or reclamation plan under the provisions of this chapter, nor the compliance with any provisions or condition thereof, shall relieve any person from any liability or responsibility resulting from grading operations as specified elsewhere in this Division.

(Added by Ord. No. 5128 (N.S.), effective 5-4-78; section 87.714 renumbered as 87.713 by Ord. No. 8174 (N.S.), adopted 11-17-92)

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SEC. 87.713.5. VIOLATION OF FEDERAL OR STATE REQUIREMENTS.

Any violation of an applicable federal or state-issued Storm Water Permit, or any failure to conform to an applicable storm water pollution prevention plan (SWPPP) prepared pursuant to such a permit or pursuant to this division or Chapter 8 of Division 7 of Title 6 of the San Diego County Code; or any failure to comply with storm water-related provisions of a County-issued grading permit or of a grading plan prepared to secure such a permit, is also a violation of this division. Potentially applicable federal or state-issued Storm Water Permits and requirements include but may not be limited to the state Industrial Activities Storm Water General Permit (State Water Resources Control Board (SWRCB) Order 97-03-DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000001); the state General Permit for Construction Activities Associated With Construction Activities (SWRCB Order 99-08-DWQ, NPDES General Permit No. CAS000002); the State Ocean Plan, Inland Surface Waters Plan, or Enclosed Bays and Estuaries Plan; the State Comprehensive Water Quality Control Plan for the San Diego Basin; any applicable U.S. Environmental Protection Agency or state-issued multi-sector, group, or general permit; and the stormwater-related provisions of any NPDES permit or state-issued Waste Discharge Requirements permit issued to a specific facility; each as it now exists or may hereafter be amended or superseded.

(Added by Ord. No. 9343 (N.S.), effective 6-22-01)

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SEC. 87.714. VIOLATION -- MISDEMEANOR UNLESS CHARGED AS INFRACTION.

- (a) Any person violating any provision of this division shall be deemed guilty of a misdemeanor unless, in the discretion of the prosecutor, it is charged as an infraction.
- (b) Each day on which a violation occurs or continues shall constitute a separate offense and may be charged and punished separately without awaiting conviction on any prior offense.
- (c) Paying a fine or serving a jail sentence shall not relieve any person from responsibility for correcting any condition which violates any provision of this division.

(Added by Ord. No. 5567 (N.S.), effective 8-30-79; amended by Ord. No. 6444 (N.S.), effective 10-22-82; section 87.715 renumbered as 87.714 by Ord. No. 8174 (N.S.), adopted 11-17-92; amended by Ord. No. 9343 (N.S.), effective 6-22-01)

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SEC. 87.715. ENFORCEMENT PROVISIONS.

(a) The County Official and the Director of Planning and Land Use, each agent or deputy thereof who is assigned to duties which include the enforcement of this division and any peace officer are responsible for enforcing the provisions of this division and the following provision of State law and which is incorporated by reference herein: Penal Code Section 148.

(b) Injunctive Relief. Any violation of this division may be enforced by a judicial action for injunctive relief.

(c) Civil Penalties. As part of a civil action filed by the County to enforce provisions of this division, a court may assess a maximum civil penalty of \$2500 per violation of this division for each day during which any violation of any provision of this division is committed, continued, permitted or maintained by such person(s).

In determining the amount of any civil liability to be imposed pursuant to this division, the superior court shall take into consideration the nature, circumstances, extent, and gravity of the violation or violations, whether any discharge caused by the violation is susceptible to cleanup or abatement, and, with respect to the violator, the ability to pay, the effect on ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic savings, if any, resulting from the violation, and such other matters as justice may require.

(d) Stop Work Orders. Whenever any work is being done contrary to the provisions of this division, or other laws implemented through the enforcement of this division, the County Official and the Director of Planning and Land Use, and each agent or deputy thereof who is assigned to duties which include the enforcement of this division, may order the work stopped by notice in writing served on any person engaged in the doing or causing such work to be done, and any such person shall immediately stop such work until authorized to proceed with the work.

(e) Cost Recovery. In addition to other penalties and remedies permitted in this division, the following costs may be awarded without monetary limitations in any civil action:

- (1) Costs to investigate, inspect, monitor, survey, or litigate;
- (2) Costs to place or remove soils or erosion control materials; costs to correct any violation; and costs to end any adverse effects of a violation;
- (3) Compensatory damages for losses to the County or any other plaintiff caused by violations; and/or
- (4) Restitution to third parties for losses caused by violations.

(Added by Ord. No. 5567 (N.S.), effective 8-30-79; section 87.716 renumbered as 87.715 by Ord. No. 8174 (N.S.), adopted 11-17-92; amended by Ord. No. 8553 (N.S.), effective 8-10-95, operative 8-10-95; amended by Ord. No. 8962 (N.S.), effective 9-23-98; amended by Ord. No. 9343 (N.S.), effective 6-22-01)

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SEC. 87.716. ARREST AND CITATION.

The County Official, each agent or deputy thereof who is assigned to duties which include the enforcement of this division and any peace officer shall have the power to make arrests for violations of those provisions of this division and State law which he has a duty to enforce and to issue citations for such violations. Any person so arrested who does not demand to be taken before a magistrate may instead be cited in the manner prescribed in Chapter 5C (commencing with Section 853.5) of Title 3, Part 2 of the Penal Code.

(Added by Ord. No. 5567 (N.S.), effective 8-30-79; section 87.717 renumbered as 87.716 by Ord. No. 8174 (N.S.), adopted 11-17-92; amended by Ord. No. 8553 (N.S.), effective 8-10-95, operative 8-10-95; amended by Ord. No. 8962 (N.S.), effective 9-23-98)

State law reference(s)--Arrests, citations, Penal Code, § 853.5 et seq.

San Diego County Code of Regulatory Ordinances
TITLE 8 ZONING AND LAND USE REGULATIONS*
DIVISION 7. EXCAVATION AND GRADING*

SEC. 87.717. IDLE MINES.

An idle mine as defined by SMARA must meet all of the following requirements:

- (a) Obtain County approval of an Interim Management Plan, pursuant to the Public Resources Code Section 2770(h). Review of Interim Management Plans shall be considered an expense of the annual inspection deposit;
- (b) Comply with the requirements for financial assurance;
- (c) Submit the annual report required by Public Resources Code Section 2207; and
- (d) Submit to an annual inspection, pursuant to Public Resources Code Section 2774.

(Added by Ord. No. 8174 (N.S.), adopted 11-17-93)